

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex Parte WILLIAM J. BAER, EDWARD HANAPOLE, ROBERT C. HARTMAN JR.,
RICHARD D. HENNESSY, EUGENE JOHNSON JR., I-MING KAO, JANET L.
MURRAY, JERRY D. ROBERTSON III and RICHARD W. WALKUS

Appeal No. 2006-1674
Application No. 09/488,971

ON BRIEF



Before THOMAS, KRASS and BLANKENSHIP, Administrative Patent Judges.

KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1-43.

The invention pertains to reordering content in a content object stored as a plurality of hierarchically related content entities in a data repository.

Representative independent claim 1 is reproduced as follows:

1. A method for reordering content in a content object stored as a plurality of hierarchically related content entities in a data repository, each content entity having an identifier, comprising the steps of:

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defining the content object with a list of content entity identifiers such that moving a content entity identifier to a new location within the list redefines the order of the object's content entities,

wherein the hierarchically related content entities further comprise a parent container type and a child container type, wherein parent containers can contain child containers, and child containers can contain content entities.

The examiner relies on the following references:

Poole et al. (Poole)	6,006,242	Dec. 21, 1999
Bromberg et al. (Bromberg)	6,529,889	Mar. 4, 2003 (filed Jul. 27, 1999)

Lance Vaughn, "ezWriter 2.0 for Windows" (Atlanta, IN), <http://www.winsite.com>, application screenshots, 1-15, August 5, 1998.

Claims 1-43 stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner offers ezWriter and Bromberg with regard to claims 1-27 and 40-43, adding Poole to this combination with regard to claims 28-39.

Reference is made to the briefs and answer for the respective positions of appellants and the examiner.

OPINION

With regard to the independent claims, the examiner asserts that ezWriter discloses the claimed subject matter but for the claimed parent and child container adhering to inheritance, with said containers containing content entities.

The examiner turns to Bromberg for its Acappella Designer, encompassing a topic hierarchy, and a display for displaying questions, etc. related to each topic. Specifically, the examiner points to the abstract, column 5, lines 27-35, and column 16, lines 13-18, of

Bromberg. The examiner asserts that a “rollup” process in Bromberg teaches that each container (parent container) in the hierarchy contains information on the activity of the containers that are subordinate to it (child containers), said containers containing content (i.e., questions, etc.). The examiner also points to column 18, lines 40-65, column 17, lines 27-40, and column 19, lines 10-20 and 22-34, of Bromberg for a teaching of a hierarchical table.

The examiner concludes that it would have been obvious “to apply Bromberg to EzWriter, providing EzWriter the benefit of hierarchical containers within its set of files making set wide edits, etc. possible” (answer-page 5).

Appellants contend that even if Bromberg discloses such parent and child container types, the topics, or “content entities” of Bromberg are different than the ezWriter .rtf files which are asserted, by the examiner, to be the claimed “content entities.” This difference, assert appellants, lies in the simple method of ezWriter of storing and organizing data, in contrast to Bromberg’s more complicated system of data storage. Appellants conclude that it would not have been obvious to discard the simple period organization system used in ezWriter and replace that simple system with the complex hierarchical rules tables of Bromberg. In appellants’ view, modifying ezWriter to incorporate the complex rules of Bromberg would modify the simple and streamlined environment desired by ezWriter and would undermine the simple operations desired in ezWriter.

Appellants assert that the proposed combination is improper because Bromberg is directed to organizing expert knowledge information while ezWriter is not concerned with the storage of expert information but rather is a utility program for “organizing outlines,

chapters, notes, etc” (page 2 of ezWriter). Therefore, conclude appellants, “it would not be obvious to modify ezWriter to incorporate the questions and answers for organized expert information as taught by Bromberg” (reply brief-page 7).

We note, at the outset, that appellants do not dispute the examiner’s findings that ezWriter describes the method for reordering content including the step of defining the content object with a list of content entity identifiers such that moving a content entity identifier to a new location within the list redefines the order of the object’s content entities. The parties also agree that ezWriter does not describe the claimed step of “wherein the hierarchically related content entities further comprise a parent container type and a child container type, wherein parent containers can contain child containers, and child containers can contain content entities.”

Moreover, while appellants do not necessarily agree that Bromberg discloses such parent and child container types, appellants do not deny this alleged teaching by Bromberg. In fact, appellants do not deny that all of the claimed steps/elements are shown by the applied references.

Appellants’ issue with the examiner’s rejection appears to be in the propriety of making the combination, appellants arguing that the artisan would not have modified ezWriter with the teachings of Bromberg in order to arrive at the instant claimed subject matter.

We have reviewed the evidence before us, including the disclosures of the applied references and the arguments of appellants and the examiner, and we conclude that the

examiner has established a prima facie case of obviousness with regard to claims 1-27 that has not been successfully rebutted by appellants.

Taking claim 1 as exemplary, the examiner has shown the steps of the claimed method as being shown in the prior art, viz., that ezWriter taught the method for reordering content by defining the content object with a list of content entity identifiers such that moving a content entity identifier to a new location within the list redefines the order of the object's content entities, and that Bromberg taught hierarchically related content entities comprising a parent container type and a child container type, wherein parent containers can contain child containers, and child containers can contain content entities, and appellants do not contest such a showing.

The examiner further explained that the skilled artisan would have been led to apply Bromberg's containers to the hierarchical display of ezWriter to give the display added functionality (answer-page 14). Furthermore, it appears to us that if ezWriter taught artisans to reorder content in a content object stored as a plurality of hierarchically related content entities in a data repository, with each content entity having an identifier (this is not gainsaid by appellants), and Bromberg taught that hierarchically related content entities may comprise a parent container type and a child container type, wherein the parent containers can contain child containers and the child containers can contain content entities, there would have been a natural motivation and tendency for the artisan to employ Bromberg's hierarchically related content entities (parent/child containers) as the hierarchically related content entities in the

data repository of ezWriter for whatever advantages Bromberg's hierarchically related content entities (parent/child containers) provide.

Appellants argue that the proposed combination is improper because ezWriter's .rft files, asserted by the examiner to be the claimed "content entities," are different from Bromberg's topics (or "content entities."). We find this unpersuasive of unobviousness as it matters not that the "content entities" of the references may represent different entities. What the artisan would have found more telling is that one reference discloses a plurality of hierarchically related content entities, with each content entity having an identifier and the other reference discloses that hierarchically related content entities may comprise a parent container type and a child container type, wherein the parent containers can contain child containers and the child containers can contain content entities. This clearly would have suggested that parent container types and child container types would be usable in the hierarchically related content entities in the data repository of ezWriter.

Appellants also argue that a modification of ezWriter by Bromberg would destroy the principle operation of ezWriter that is in keeping with a "streamlined environment" and that such modification would abandon ezWriter's use of the sequence of periods in front of entities in the .ezw file and instead use parent and child containers (principal brief-page 15). Again, we find this argument to be unpersuasive of unobviousness.

It is not necessary that one reference be bodily incorporated into the other reference. The teaching by Bromberg of using a parent container type and a child container type, wherein the parent containers can contain child containers and the child containers can

contain content would have suggested such a use by ezWriter. But the skilled artisan would have understood that ezWriter would not need to be so modified as to substitute Bromberg's specific system for that of ezWriter. The use of periods in ezWriter, itself, is a sort of parent/child container teaching in that an entity having three periods preceding it is a "child" of an entity having only two periods preceding it. Bromberg merely suggests that the hierarchically related content entities of ezWriter (.rtf files) may be modified to comprise a parent container type and a child container type, wherein the parent containers can contain child containers and the child containers can contain content entities. As the examiner has pointed out (e.g., answer-page 12), if there is some specific definition of the term "container," appellants have certainly not indicated as such.

Appellants argue (principal brief-page 16) that there is no reason why the child containers of Bromberg, which contain questions to be answered by an expert, would be combined with the .rtf files of ezWriter. Again, appellants are viewing the combination as a bodily incorporation of one reference into the other reference. But there is no reason why the skilled artisan making the modification would need to incorporate into ezWriter the expert answers of Bromberg. The more general teaching that would have been taken away by the skilled artisan viewing Bromberg is the use of a parent container type and a child container type, wherein the parent containers can contain child containers and the child containers can contain content entities.

Appellants argue that modifying ezWriter to include the rollup feature of Bromberg would result in a substantial modification of the principle of operation of ezWriter and would introduce a level of complexity that is contradictory to its goal of streamlined environment. We disagree. Merely because a modification may make a system more complex, is not, per se, a reason to conclude unobviousness. Sometimes, the addition of some complexity would have been obvious, as in the instant case, but the advantage of the modification causing that complexity is a trade-off against a less complex system not offering the advantages of the modification. It does not mean that one way is not obvious over the other way, within the meaning of 35 U.S.C. § 103.

For the foregoing reasons, we will sustain the rejection of claims 1-27 under 35 U.S.C. § 103.

With regard to claims 40-43, the examiner rejected these claims under 35 U.S.C. § 103 for reasons set forth at pages 8-9 of the answer. Appellants argue, in particular, that the combination of references does not teach “a second list of content entity identifiers.” They assert that ezWriter teaches only a single list of content entity identifiers, as on page 8 of that reference, and that the order of the content entities within the list of content entity identifiers is modified by the addition or removal of periods. However, assert appellants, at no point is the movement of a content entity identifier performed by “specifying a location from *a second list of content entity identifiers* where the content entity identifier from the first list of content entity identifiers is to be moved.” Moreover, argue appellants, there is no teaching that a location of a second list of content entity identifiers comprises a current content entity

identifier or a newly created content entity identifier.

The examiner explains that at page 9 of ezWriter, there is shown a tree having a first list (“Introduction,” and “..What is RTF (Rich Text Format)”), and second list (“Planned Improvements,” and “..How to Request Improvements”). The content entity “..What is RTF (Rich Text Format)” is moved from the first list to the second list, as demonstrated on page 10 of ezWriter.

Appellants argue (reply brief-page 7) that the tree in ezWriter cited by the examiner is merely one list, with page 10 of that reference merely illustrating the structure of that single list when content is reorganized.

We agree with the examiner’s interpretation. We see no reason that each element in ezWriter’s tree having a single period preceding it cannot be considered a separate list, having other elements indented thereunder forming the separate list elements. While appellants argue that ezWriter shows merely a structure with a single list, appellants have offered nothing to evidence why the examiner’s interpretation is mistaken.

Accordingly, we find that ezWriter does describe two lists as claimed and we will sustain the rejection of claims 40-43 under 35 U.S.C. § 103.


With regard to claims 28-39, also rejected under 35 U.S.C. § 103, but with Poole added to the combination of ezWriter and Bromberg, appellants argue only that Poole does not satisfy the deficiencies of the other two references. Since we find, *supra*, no said deficiencies, we will also sustain the rejection of claims 28-39 under 35 U.S.C. §103.


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The examiner's decision rejecting claims 1-43 under 35 U.S.C. § 103 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv) (2004).

AFFIRMED


JAMES D. THOMAS
Administrative Patent Judge


ERROL A. KRASS
Administrative Patent Judge

BOARD OF PATENT APPEALS AND INTERFERENCES

HOWARD B. BLANKENSHIP
Administrative Patent Judge

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